

No. 32503

**BRAZIL
and
PORTUGAL**

**Agreement on social security or social insurance (with
administrative arrangement). Signed at Brasília on
7 May 1991**

Authentic text: Portuguese.

Registered by Brazil on 1 February 1996.

**BRÉSIL
et
PORTUGAL**

**Accord de sécurité sociale ou d'assurance sociale (avec arran-
gement administratif). Signé à Brasília le 7 mai 1991**

Texte authentique : portugais.

Enregistré par le Brésil le 1^{er} février 1996.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON SOCIAL SECURITY OR SOCIAL INSURANCE
BETWEEN THE GOVERNMENT OF THE FEDERATIVE RE-
PUBLIC OF BRAZIL AND THE GOVERNMENT OF THE POR-
TUGUESE REPUBLIC

The Government of the Federative Republic of Brazil and the Government of the Portuguese Republic

Desiring to improve the situation of nationals of the two countries in the social field and, consequently, to further refine the existing Agreement on Social Insurance of 17 October 1969 between Brazil and Portugal,² specifically by bringing the existing Agreement into line with the provisions that have been newly introduced into the social security and social insurance legislation of the respective countries,

Have agreed as follows:

TITLE I

GENERAL PROVISIONS AND APPLICABLE LEGISLATION

Article 1

For purposes of the application of this Agreement:

(a) The term “legislation” means the laws, regulations and statutory provisions specified in article 2;

(b) The term “worker” means an active worker, pensioner, retired person, insured person enjoying a benefit or any person in such a situation;

(c) The term “beneficiary” means a worker, a person who contributes voluntarily or the dependants of such a person;

(d) The term “dependant” means a person declared to be such under the social security legislation of Brazil or a family member or person recognized as such under the social security legislation of Portugal;

(e) The term “competent authority” means the Minister or other appropriate authority responsible for the social security or social insurance schemes;

(f) The term “administering authority” means the competent institution responsible for the application of the legislation referred to in article 2, or the institution responsible for the benefits specified in the said legislation;

(g) The term “insurance period” means periods of contribution or equivalent periods defined or recognized as such by the legislation under which they were or are considered to have been completed;

¹ Came into force on 25 March 1995, i.e., 30 days after the date of receipt of the last of the notifications by which the Parties had informed each other of the completion of their respective internal legal procedures, in accordance with article 25.

² United Nations, *Treaty Series*, vol. 832, p. 111.

(h) The terms “benefits”, “pensions” or “income” mean the benefits, pensions or income specified in the applicable legislation, including any increases, adjustments or supplements or any compensation in the form of cash that may replace them.

2. The meaning of the other terms used in this Agreement shall be that assigned to them in the legislation of the Contracting State concerned.

Article 2

1. This Agreement shall apply:

I. In Brazil, to legislation on the general social security scheme governing:

- (a) Medical assistance;
- (b) Old age;
- (c) Temporary incapacity to work;
- (d) Invalidity;
- (e) Length of service;
- (f) Death;
- (g) Childbirth;
- (h) Family allowance;
- (i) Industrial accidents and occupational diseases.

II. In Portugal, to legislation governing:

(a) The general social insurance scheme covering sickness, maternity, invalidity, old age and death benefits and family benefits;

(b) The special social insurance schemes established for certain categories of workers insofar as they relate to the benefits referred to in the preceding subparagraph;

(c) The benefits awarded by the official health services, in accordance with Act No. 56/79 under which the National Health Service was established;

(d) The industrial accident and occupational diseases scheme.

2. The Agreement shall also apply to the coverage provided in legislation that supplements or amends the legislation referred to in the preceding paragraph.

3. It shall also apply to legislation that extends existing schemes to new occupational categories or establishes new social security or social insurance schemes, provided that the Contracting State concerned lodges no objection to its application within three months of the date of the official publication of the legislation.

Article 3

1. This Agreement shall apply to the nationals of each of the Contracting States and to any other person who is or who has been subject to the legislation referred to in article 2, as well as to the family members and survivors of such persons.

2. The persons referred to in the preceding paragraph shall have the same entitlements and obligations as the nationals of the Contracting State in which

they are, with respect to the application of the respective legislation referred to in article 2.

Article 4

1. Except where otherwise provided in this Agreement, workers employed in the territory of a Contracting State shall be subject only to the legislation of that State, even if they reside in the territory of the other State or if the entity that employs them has its registered office in the territory of the other State.

2. The principle laid down in the preceding paragraph shall be subject to the following exceptions:

(a) A worker employed by a public or private enterprise situated in one of the Contracting States who is sent to the territory of the other State for a limited period shall remain subject to the legislation of the first-mentioned State, provided that the period of his employment in the territory of the other State does not exceed 60 (sixty) months. If the period during which he is so employed should, for unforeseeable reasons, be extended beyond that period, the legislation of the first-mentioned Contracting State may, as an exceptional measure, continue to apply for a further period of not more than 12 (twelve) months, subject to the express prior consent of the competent authority of the other State;

(b) The flight crews of airlines shall continue to be subject exclusively to the legislation in force in the State in whose territory the airline is located;

(c) Members of the crews of ships under the flag of one of the Contracting States shall be subject to the legislation in force in that State. Any other person employed by the ship for loading and unloading, repairs and custodial duties shall, when in port, be subject to the legislation of the State within whose jurisdiction the ship is.

3. The competent authorities of the Contracting States may, by agreement, extend or amend, in individual cases or for specific occupational categories, the exceptions listed in paragraph 2.

Article 5

1. Diplomatic, administrative and technical officials of diplomatic missions and consulates of the Contracting States shall be subject to the legislation of the State to which they belong, with the exception of honorary consuls, who shall be subject to the legislation of the State of residence.

2. Other officials, employees and workers in the service of diplomatic missions and consulates or on the personal staff of one of their members shall be subject to the legislation of the State in whose territory they are employed, unless they elect within 12 (twelve) months of being engaged and with the consent in each case of the competent authority of the said State to be subject to the legislation of the Contracting State in whose service they are.

Article 6

1. A person who has qualified in one Contracting State for entitlement to the benefits provided for in the legislation referred to in article 2 shall retain such entitlement without any restriction vis-à-vis the administering authority of that State when he moves to the territory of the other Contracting State. In the case of moving to a third State, the retention of the said entitlement shall be subject to the conditions

determined by the State which grants the benefit to its nationals residing in that third State.

2. A person who, on account of having moved from the territory of one Contracting State to or from the other, has had the benefits provided for in the legislation referred to in article 2 suspended may, on application, recover them by virtue of this Agreement. The rules in force in the Contracting States on the expiration and statutory limitation of rights relating to social security or social insurance shall be respected.

TITLE II

BENEFIT PROVISIONS

Article 7

1. A person belonging to the social insurance or social security scheme of one Contracting State, including the beneficiary of a pension or income that is payable only under the legislation of one Contracting State shall retain the entitlement to medical assistance during a temporary stay in the territory of the other State. Dependants of the said person shall have the same entitlements.

2. Dependants of the person referred to in the preceding paragraph shall have an entitlement to medical assistance in the other State in which they reside, for as long as the said person continues to belong to the social security or social insurance scheme of a Contracting State.

3. The beneficiary of a pension or income that is payable only under the legislation of one Contracting State, and his dependants, shall retain the entitlement to medical assistance when he transfers his residence to the territory of the other State.

4. The scale of and procedures for the medical assistance provided by the administering authority of the State that grants the benefits, under the terms of the preceding paragraphs, shall be determined in accordance with the legislation of the said State. Nevertheless, the duration of the medical assistance shall be that prescribed by the legislation of the State to whose social security or social insurance scheme the person belongs.

5. The expenses relating to the medical assistance referred to in this article shall be borne by the administering authority to whose insurance scheme the worker belongs. The method of reimbursing those expenses and determining their amount shall be fixed by agreement between the competent authorities, in accordance with the provisions of a supplementary arrangement to this Agreement. The competent authorities may also refuse to reimburse all or part of the above-mentioned costs.

Article 8

1. For purposes of satisfying the qualifying period needed to acquire the right to cash benefits for illness or maternity, under the legislation of a Contracting State, insurance periods completed in the other State shall, to the extent necessary, be taken into account.

2. A person who has completed in a Contracting State the period needed to qualify for the illness or maternity cash benefits shall retain in the other State the right to those benefits, except where the person is entitled to the same benefits under the legislation of the latter State.

Article 9

1. For purposes of the application of the Portuguese legislation, a person who has completed insurance periods under the auspices of the legislations of both Contracting States shall have those periods aggregated for the award of invalidity, old age and death benefits, except where the conditions set out in the relevant legislation are satisfied without any need for aggregation.

2. For purposes of the application of the Brazilian legislation, a person who has completed insurance periods under the auspices of the legislations of both Contracting States shall have those periods aggregated for the award of invalidity, old age and death benefits.

3. In awarding a pension for length of service, the periods of service completed in Brazil shall be aggregated with the insurance periods completed under the Portuguese legislation, provided that the insured person was effectively exercising an occupation during the insurance periods completed in Portugal.

Article 10

For purposes of the application of the Brazilian and Portuguese legislations, the following rules shall be observed:

1. Where, under the legislation of the Contracting States, entitlement to a benefit depends on insurance periods completed in an occupation governed by a special social security or social insurance scheme or law, only the periods completed in the same occupation in both States may be aggregated for the award of the said benefits.

2. Where there is no special social security or social insurance scheme or law for the said occupation in one Contracting State, only the periods in which the occupation has been exercised in the first-mentioned State under the social security or social insurance scheme in force in it may be taken into consideration for the award of the said benefits in the other State. If, however, the worker does not obtain the right to benefits under the special scheme or law, the periods completed under that scheme shall be considered as if they had been completed under the general scheme.

3. In aggregating the insurance periods, each Contracting State shall take into account the periods completed under the legislation of the other State, provided that they are not concurrent with insurance periods completed under its own legislation.

Article 11

1. The benefits to which the persons referred to in articles 9 and 10 of this Agreement and their dependants are entitled under the legislation of both Contracting States, whether or not as a result of the aggregation of insurance periods, shall be computed in the manner provided for in the legislation of each State, based exclusively on the insurance periods completed under the legislation of the State.

Article 12

When the sum of pensions or retirement benefits payable by the administering authorities of the Contracting States is less than the minimum established in the Contracting State in which the beneficiary resides, the difference between such sum and that minimum shall be made up for by the administering authority of the latter State.

Article 13

For purposes of the award of the family benefits and childbirth and funeral benefits provided for, respectively, in the legislations of Brazil and Portugal, each Contracting State shall, to the extent necessary, take into account the insurance periods completed in the other Contracting State.

Article 14

1. A person covered by the social security or social insurance scheme of a Contracting State, including the beneficiary of a pension or income that is payable only under the legislation of a Contracting State and whose dependants reside or receive their education in the territory of the other State, shall be entitled, with respect to the said dependants, to the family benefit or family allowance under the legislation of the first-mentioned State.

2. A person resident in the territory of a Contracting State to whom the legislation of the other State is applied, in conformity with the provisions of this Agreement, shall be entitled to the family benefit or family allowance under the legislation of the latter State.

Article 15

Where, for the purpose of assessing the degree of disability in a case of industrial accident or occupational disease, the legislation of one of the Contracting States provides that previous industrial accidents and occupational diseases shall be taken into account, industrial accidents sustained and occupational diseases contracted previously under the legislation of the other State shall also be taken into account as though they had been sustained or contracted under the legislation of the first-mentioned State.

TITLE III

MISCELLANEOUS PROVISIONS

Article 16

1. The modalities of the application of this Agreement shall be the subject of an Administrative Arrangement to be concluded by the competent authorities of the Contracting States.

2. The competent authorities of the Contracting States shall notify each other of the measures taken to implement this Agreement and of the changes that are introduced in their respective social security or social insurance laws.

Article 17

1. The competent authorities and the administering authorities of the Contracting States shall assist one another in the application of this Agreement.

2. Medical examinations requested by the administering authority of one Contracting State of beneficiaries who are in the territory of the other State shall be carried out by the administering authority of the latter, at the request of the former and at its expense.

Article 18

1. When the administering authorities of the Contracting States are required to grant cash benefits under this Agreement, they shall do so each in the currency of its own country.

2. When payment is made in the currency of the other country, the conversion shall be made at the lowest rate of official exchange in force in the State whose administering authority is making the payment.

Article 19

1. Any exemption from fees, charges and duties established in social security or social insurance matters by the legislation of one Contracting State shall also be applied for the purpose of this Agreement.

2. All records and documents required to be produced by virtue of this Agreement shall be exempt from legalization by diplomatic, consular and registration authorities, provided they have been processed by one of the administering authorities.

Article 20

For purposes of the application of this Agreement, the competent authorities and the administering authorities of the Contracting States shall communicate directly with each other and with beneficiaries or their representatives.

Article 21

1. Requests, documents and appeals which are to be submitted to a competent institution or jurisdiction of one Contracting State shall be deemed to have been submitted in time even if they are submitted to the corresponding institution or jurisdiction of the other State, provided their submission takes place within the period laid down by the legislation of the competent State.

2. An application for benefits under this Agreement which is submitted to an administering authority of one Contracting State shall protect the rights of the applicant under the legislation of the other State, provided that the applicant requests that the application be considered under the legislation of the latter State.

3. If an applicant submits to the administering authority of a Contracting State an application for benefits and does not specifically confine the application to the legislation of the said State, the application shall also protect the rights of the applicant under the legislation of the other State.

Article 22

The consular authorities of the Contracting States may represent, without a special mandate, nationals of their own State before the competent authorities and the social security or social insurance administering authorities of the other State.

Article 23

The competent authorities of the Contracting States shall settle by agreement any differences and disputes which may arise in the application of this Agreement.

Article 24

In order to facilitate the application of this Agreement, the competent authorities of the Contracting States shall set up such liaison agencies as they deem appropriate, in an Administrative Arrangement.

TITLE IV

FINAL PROVISIONS

Article 25

Each of the Parties shall notify the other of the fulfilment of the respective internal legal formalities necessary for the entry into force of this Agreement, which, in conformity with the Administrative Arrangement, shall take place 30 (thirty) days after the date on which the second of these notifications is received.

Article 26

1. This Agreement shall remain in force for one year from the date of its entry into force. It shall be considered to be tacitly extended for equal periods unless notice of termination is given through the diplomatic channel by the Government of either of the Contracting States at least three months before its expiry.

2. In the event of termination, the provisions of this Agreement, the Administrative Arrangement and the procedural norms governing the implementation of the Agreement shall remain in force with respect to acquired rights or rights that are in the process of being acquired.

Article 27

This Agreement shall replace the Agreement on Social Insurance signed between the Government of the Federative Republic of Brazil and the Government of the Portuguese Republic on 17 October 1969 and the rights acquired under the substituted Agreement shall be protected.

DONE at Brasília, on 7 May 1991, in two copies, in the Portuguese language, both texts being equally authentic.

For the Government
of the Federative Republic of Brazil:

FRANCISCO REZEK

For the Government
of the Portuguese Republic:

JOÃO DE DEUS PINHEIRO

ADMINISTRATIVE ARRANGEMENT SUPPLEMENTARY TO THE AGREEMENT ON SOCIAL SECURITY OR SOCIAL INSURANCE BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE PORTUGUESE REPUBLIC

The Government of the Federative Republic of Brazil and the Government of the Portuguese Republic

Pursuant to article 16 of the Agreement on Social Security or Social Insurance between the Government of the Federative Republic of Brazil and the Government of the Portuguese Republic, of May 1991, the competent Brazilian and Portuguese authorities have concluded the following Administrative Arrangement for the application of the Agreement:

CHAPTER I

GENERAL PROVISIONS

Article 1

For purposes of the application of this Arrangement, the definitions used shall be those given in article 1 of the Agreement on Social Security or Social Insurance between the Governments of the Federative Republic of Brazil and the Portuguese Republic, hereinafter referred to as the Agreement.

Article 2

For purposes of the application of the Agreement and of this Arrangement, the following organizations are designated as administering authorities:

1. In Brazil:

(a) The National Social Insurance Institute (Instituto Nacional do Seguro Social (INSS)) for the granting and continued payment of benefits (cash entitlements) medical treatment, rehabilitation and occupational therapy, and for the collection, monitoring and recovery of insurance contributions;

(b) The National Social Insurance Medical Assistance Institute (Instituto Nacional de Assistência Médica da Previdência Social (INAMPS)) for the provision of health services (medical, dental, pharmaceutical, ambulatory and hospital).

2. In Portugal:

(a) On the continent

- (i) The Regional Social Insurance Centre (Centro Regional de Segurança Social) where the insured person is registered for illness, maternity and family allowance cash benefits;
- (ii) The Regional Health Administration for the area in which the beneficiary resides or is staying for medical assistance benefits;
- (iii) The National Pension Centre (Centro Nacional de Pensões) in Lisbon for invalidity, old age and death benefits;
- (iv) The National Occupational Diseases Insurance Fund (Caixa Nacional de Seguros e Doenças Profissionais) in Lisbon for benefits arising from industrial accidents and occupational diseases.

(b) In the Autonomous Region of the Azores

- (i) The Regional Social Insurance Office (Direção Regional de Segurança Social) in Angra do Heroísmo for the benefits referred to in (a) (i) and (iii) above;
- (ii) The Regional Health Office (Direção Regional de Saúde) in Angra do Heroísmo for the benefits referred to in (a) (ii) above;
- (iii) The National Occupational Diseases Insurance Fund (Caixa Nacional de Seguros de Doenças Profissionais) in Lisbon for the benefits referred to in (a) (iv) above.

(c) In the Autonomous Region of Madeira

- (i) The Regional Social Insurance Office (Direção Regional de Segurança Social) in Funchal for the benefits referred to in (a) (i) and (iii) above;
- (ii) The Regional Public Health Office (Direção Regional de Saúde Pública) in Funchal for the benefits referred to in (a) (ii) above;
- (iii) The National Occupational Diseases Insurance Fund in Lisbon for the benefits referred to in (a) (iv) above.

3. The administering authorities granted competence under the applicable legislation shall be competent in other cases.

Article 3

1. Pursuant to and for the purposes of article 24 of the Agreement, the following agencies are designated as liaison agencies:

(a) In Brazil

- The National Social Insurance Institute (Instituto Nacional do Seguro Social (INSS)).

(b) In Portugal

- The Department of International Relations and Social Security Agreements (Departamento de Relações Internacionais e Convenções de Segurança Social (DRICSS)).

2. The liaison agencies shall take the measures necessary to implement the Agreement and this Arrangement and to inform the beneficiaries of their rights and obligations thereunder.

3. The liaison agencies shall communicate to each other all the information that is necessary for the application of the Agreement and of the Arrangement.

CHAPTER II

ADMINISTRATIVE PROVISIONS FOR DETERMINATION OF THE APPLICABLE LEGISLATION

Article 4

1. In the cases specified in article 4, paragraph 2 (a), of the Agreement, the administering authority of the State whose legislation is applicable shall, at the request of the enterprise in which the worker is employed, issue a certificate stating that the worker remains subject to the legislation of the said State.

2. In the event that several workers are sent together by the same enterprise situated in a Contracting State to work temporarily in the territory of the other State, a collective certificate shall be issued.

3. Two copies of the certificate shall be submitted to the liaison agency of the other State.

4. For purposes of the application of article 4, paragraph 2 (a) of the Agreement, the enterprise by which the worker is employed must request that the worker remain subject to the legislation of the sending State. The request, on a standard form, must be submitted to the competent authority of the latter State, from which the competent authority of the other State shall request the necessary consent.

Article 5

1. For purposes of the application of article 4, paragraph 3, of the Agreement, any request for a modification of the regime of the applicable legislation must be made by both the worker and the enterprise, with the required supporting documentation to the competent authority of the State in which the enterprise is situated.

2. Upon receipt of the consent of the competent authority mentioned in the preceding paragraph, the application shall be sent to the competent authority of the other State to obtain agreement for the requested modification.

Article 6

1. For purposes of the application of article 5, paragraph 2, of the Agreement, the official, employee or worker shall submit through the employer to the competent authority of the State in whose territory the insured person carries on the activity two copies of the request before the expiry of the period stated therein.

2. Upon the granting or denial of the request, the applicant shall be informed of the decision through the employer and, where the request is granted, the competent authority of the State in which the worker is employed shall also be informed.

CHAPTER III

IMPLEMENTATION OF THE PROVISIONS GOVERNING BENEFITS

Article 7

The following rules shall be observed for purposes of the aggregation of insurance periods, where necessary, under the Agreement:

(a) The insurance periods to be taken into account for the purpose of aggregation shall be all those considered as such by the legislation of the Contracting State in which they were completed;

(b) When an insurance period completed under an insurance scheme which is compulsory under the legislation of one Contracting State runs concurrently with either an insurance period completed under an optional insurance scheme or an insurance period during which no work was performed under the legislation of the other Contracting State, only the first period shall be taken into consideration;

(c) When a period of insurance during which no work was performed is completed in one State and runs concurrently with a similar period in the other State, that period shall be considered only by the administering authority of the State to

which the worker compulsorily belonged by reason of work performed immediately prior to the period of concurrent insurance;

(d) Where it is not possible to determine the exact moment in which some insurance periods were completed under the legislation of a Contracting State, such periods shall not be considered as additional to those credited under the legislation of the other Contracting State.

(e) Where insurance periods completed under the legislation of a Contracting State are expressed in units of time different from those used in the legislation of the other Contracting State, the necessary conversion for purposes of aggregation shall be made in accordance with the rules in force in the State that requires the conversion to be made.

Article 8

1. For purposes of the application of article 7, paragraphs 1 to 4, of the Agreement, the beneficiary shall obtain from the administering authority of the Contracting State whose legislation is applicable a certificate of entitlement to benefits. This certificate, which must be submitted to the administering authority of the Contracting State of the place where the beneficiary is temporarily staying or is resident, must state the maximum period during which the benefit is payable under the legislation of the competent State. Where the certificate does not so state, it shall remain valid for as long as the most recent administering authority has not been notified of its cancellation.

2. Where immediate medical assistance is necessary, such assistance may be provided temporarily for a period of three months to persons not in possession of the certificate referred to in the preceding paragraph, subject to the following:

(a) The administering authority of the Contracting State of the place where the beneficiary is staying or is resident shall issue a temporary certificate of entitlement to benefits, upon presentation by the beneficiary of an identification document or other proof that the beneficiary belongs to the social security or social insurance scheme of the other country;

(b) The beneficiary shall take immediate steps to obtain the certificate of entitlement issued by the administering authority of the competent State;

(c) Failure to submit the certificate to the administering authority of the Contracting State of the place in which the beneficiary is staying or is resident shall result in termination of the provisional entitlement to medical assistance beyond the period referred to above, except in cases where continuation of the assistance is absolutely necessary;

(d) The cost of the medical assistance that is provided on a temporary basis in the circumstances referred to in the preceding paragraphs shall be borne by the health service or health system under which the beneficiary is covered.

3. The liaison agencies and administering authorities of the Contracting States shall take the steps necessary to inform the beneficiaries of the need to obtain beforehand the certificate referred to in the first paragraph of this article, particularly in the case of temporary relocation to the territory of the other country.

Article 9

1. For purposes of the application of article 7, paragraph 5, of the Agreement and of article 8 of this Arrangement, the expenses arising from the medical assistance provided shall be reimbursed annually by the administering authority to whose scheme the worker belongs, based on agreed “per capita” amounts, as follows:

(a) The average annual cost of medical assistance shall be obtained by dividing the total cost of the medical assistance provided by the administering authorities of the country concerned to the persons covered under the respective social security or social insurance scheme by the number of persons covered by this scheme;

(b) The agreed amount to be reimbursed shall be determined by multiplying the average monthly cost of medical assistance in the country concerned by the number of months or fractions of months in the period during which each person to be taken into account for purposes of reimbursement was entitled to medical assistance;

(c) The total amount to be reimbursed shall be determined after each calendar year by the agency in each country which is responsible for the financial administration of medical care.

2. Accounts relating to the cost of medical assistance provided shall be submitted for each calendar year during the first half of the second year following the business year in which the expenses were incurred.

3. The respective computation, which shall be based, where possible, on the reconciliation of charges, shall be done during the half of the year immediately following, using for purposes of compensation and payment of the credit balance, where appropriate, the official rate of exchange in force on the first working day of the month of July.

Article 10

Costs relating to medical examinations and to determining incapacity to work, and travel expenses and other related costs shall be reimbursed to the administering authority which arranges the examinations by the administering authority on whose behalf the examinations were carried out. Reimbursement shall be made in accordance with the schedule of charges and the rules applied by the authority which arranges for the examinations, which shall, accordingly, submit a statement specifying the costs incurred.

Article 11

The reimbursements provided for in articles 9 and 10 above and the communications required for this purpose shall be effected through the liaison agencies.

Article 12

1. A worker who is subject to the legislation of a Contracting State and who claims an entitlement to cash benefits for illness or maternity that took place during a stay or residence in the territory of the other Contracting State shall immediately submit the request to the administering authority of the place of stay or residence, attaching a certificate issued by the attending doctor. The said certificate shall state the date from which the incapacity to work commences, its probable duration and the corresponding diagnosis.

2. The administering authority of the place of stay or residence shall transmit without delay all medical records relating to the incapacity to work to the competent administering authority, which shall rule on whether to award the benefits.

Article 13

1. An applicant who wishes to claim an entitlement to benefits under articles 9 and 10 of the Agreement may submit the appropriate request to the administering authority of the State of his residence, in accordance with the modalities set out in the legislation of the said State.

2. Such request shall be transmitted, in a standard form, to the administering authority of the other Contracting State and shall contain the elements of information needed to identify the applicant and his dependants as well as the administering authorities under whose scheme the worker is covered and the enterprises with which he was employed in each one of the States in question.

3. The competent administering authority of the State of residence shall also transmit to the administering authority of the other State two copies of a statement of coverage, which shall specify the insurance periods that the worker may claim under the respective legislation, as well as the entitlements that may be recognized for the said periods.

4. The identifying and qualifying elements contained in the statement of coverage shall be duly authenticated by the administering authority that transmits the statement, which must certify that the original records that accompanied the application confirm the information contained in the statement. Once the statement that has been thus authenticated has been transmitted, the administering authority that transmits it shall no longer be required to send the original records.

5. The administering authority to which the statement of coverage referred to in paragraphs 3 and 4 of this article was transmitted shall determine the entitlements of the applicant based solely on the periods that were credited under its own legislation or, where appropriate, by aggregating the periods covered under the legislation of the two Parties. The same administering authority shall then return a copy of the statement of coverage attaching to it the information on the periods credited under its own legislation and the benefits awarded to the applicant.

6. Upon receipt of the statement of coverage duly completed with all the required elements of information, the first-mentioned administering authority shall determine, where necessary, the entitlements for which the applicant qualifies after aggregation of the periods credited under the legislation of the two Parties and shall make its own decision on the amount of the benefits to be paid and shall notify the other administering authority accordingly.

Article 14

1. Where a worker or his dependant who is not resident in Brazil or Portugal requests a benefit in accordance with the provisions of articles 9 and 10 of the Agreement, the application may be submitted to the administering authority of the country under whose legislation the worker has last been insured.

2. An application made to the administering authority of a country may be received by the administering authority or by the liaison agency of the other country. In such case, the application in question must be transmitted to the administering authority to which it is addressed with the elements of information required for its

processing and indication of the date on which it was first received. This date will be considered valid for purposes of the applicable legislation.

Article 15

1. The declaration and the determination of the degree of a beneficiary's invalidity shall be made by the administering authority which awards the benefit.

2. If necessary, the administering authority of the State which awards the benefit may ask the administering authority of the other State for any medical records and documents concerning the applicant which may be in its possession.

3. In declaring and determining the state and degree of invalidity, the administering authority of each State shall take into account the medical opinions issued by the administering authority of the other State. However, the administering authority of each State shall reserve the right to have the person concerned examined by a doctor designated by it.

4. The medical examinations of beneficiaries who are temporarily incapacitated for work may be arranged by the liaison agencies or by the administering authority of the country in which the beneficiary is staying or resident, prior to the expiration of the date set by the competent administering authority, regardless of the express request of the liaison agency or the administering authority of the other country.

5. The liaison agency or administering authority of each country may take the initiative to attach to requests for review the corresponding medical reports, regardless of the express request of the agency or authority of the other country.

6. Medical examinations carried out in connection with requests for review of a decision shall be conducted by a medical panel or, where it is not possible to constitute such a panel, by a different doctor from the one who carried out the earlier examination.

7. Additional records, reports and examination results, whose clinically significant information is required to be stated in the medical report, shall not be required to be transmitted.

Article 16

For purposes of the application of article 14 of the Agreement, a worker must submit the application to the competent administering authority and shall attach to the application the documents provided for in the applicable legislation.

Article 17

The provisions of this Arrangement governing the award of sickness and maternity benefits shall apply, with the necessary modifications, to the award of benefits arising from industrial accidents or occupational illness.

CHAPTER IV

MISCELLANEOUS AND FINAL PROVISIONS

Article 18

1. In conformity with article 18 of the Agreement, the Portuguese administering authority for pensions, in consultation with the Portuguese liaison agency,

shall pay these benefits directly to the beneficiaries, without prejudice to the monthly notification to the National Social Security Institute of the number of pensioners and total value of pensions. The quickest and most effective international means of payment shall be used for this purpose.

2. Any cash benefits not specified in the paragraph above and which are payable by a Portuguese administering authority to beneficiaries resident in Brazil shall be paid directly to the beneficiaries.

3. The Portuguese liaison agency shall pay on behalf of the Brazilian National Social Insurance Institute the benefits awarded by the Institute to its beneficiaries resident in Portugal.

4. All benefits included in the lists of monthly payments not made in the other Contracting State shall be returned as early as possible accompanied by the respective statement of account.

5. The liaison agencies of both Parties shall each year provide information to the other Party on the processing of the payments referred to in the above paragraphs.

Article 19

1. A joint technical commission shall be established whose membership shall be approved by the competent authorities based on the recommendations of the liaison agencies. The joint commission shall have the following mandate:

- To resolve by agreement doubts concerning the interpretation and application of the Agreement and of this Arrangement;
- To adopt procedural norms;
- To propose changes in the criteria for reimbursement;
- To resolve any other issues submitted to it by the competent authorities.

2. The joint commission shall meet alternately in each one of the countries at the initiative and at the proposal of the liaison agencies.

Article 20

The liaison agencies and administering authorities of both Contracting States shall provide their good offices for the application of the Agreement and of this Arrangement and shall proceed on the same basis as in the application of their own legislation. Administrative assistance provided to each other shall, in principle, be at no cost. The competent authorities may, however, agree on the reimbursement of certain expenses.

Article 21

1. For purposes of the application of the provisions of this Arrangement, the forms agreed upon by the liaison agencies of the Contracting State shall be used.

2. If applications for benefits are not accompanied by the necessary documents or certificates, or if those documents or certificates are incomplete, the administering authority or liaison agency to which the application is made may apply to the authority or liaison agency of the other Contracting State in order to complete the said documentation.

Article 22

This Arrangement shall enter into force on the same date as the Agreement and shall have the same duration as the Agreement.

Article 23

1. This Arrangement shall take the place of the Supplementary Arrangement to the Agreement on Social Insurance between the Governments of the Federative Republic of Brazil and Portugal, of 17 October 1969.

2. The procedural norms agreed upon for the period during which the previous Agreement and Arrangement were in force are hereby revoked, with the exception of those that are necessary for the proper implementation of this Arrangement.

DONE at Brasília, on 7 May 1991, in two original copies, in the Portuguese language, both texts being equally authentic.

For the Government
of the Federative Republic of Brazil:

FRANCISCO REZEK

For the Government
of Portugal:

JOÃO DE DEUS PINHEIRO
